

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

WARREN DURHAM,)	
)	
Plaintiff)	
v.)	C.A. No. 04-297Erie
)	District Judge McLaughlin
CITY AND COUNTY OF ERIE, et al.)	Magistrate Judge Baxter
Defendants)	

ORDER

AND NOW, this 24th day of March, 2006;

IT IS HEREBY ORDERED that Plaintiff's motion for summary judgment against Defendants McElynn and County of Erie [Document # 26] be DISMISSED AS MOOT as these Defendants have already been dismissed from this action by District Judge Sean J. McLaughlin.

IT IS FURTHER ORDERED that the parties are allowed ten (10) days from this date to appeal this order to a district judge pursuant to Local Rule 72.1.3 B. Failure to appeal within ten (10) days may constitute waiver of the right to appeal.

S/ Susan Paradise Baxter
SUSAN PARADISE BAXTER
CHIEF UNITED STATES MAGISTRATE JUDGE

